

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

IN RE MICROSOFT CORPORATION
ANTITRUST LITIGATION:

BURST.COM,

Plaintiff,

- vs -

Case No. MDL DOCKET NO. 1332
JFM 02-CV-2090

MICROSOFT CORPORATION,

Defendant.

CERTIFIED COPY

CONFIDENTIAL

DEPOSITION OF RICHARD LANG

CONFIDENTIAL

Pages 1 to 175

JULY 23, 2003

Reported by: LOUISE MARIE SOUSOURES, CSR NO. 3575



GROSSMAN & COTTER
CERTIFIED COURT REPORTERS
Comp-U-Scripts Weber & Volzing

2421 Park Boulevard, Suite A-200 • Palo Alto, CA 94306
Phone 650.324.1181 Fax 650.324.4609

465 California Street • San Francisco, CA 94104
Phone 415.395.9330 Fax 415.395.9254

1 18 seconds, would that be faster than realtime? 10:37:54
2 A. Yes. 10:38:00
3 Q. And then that would be within what you 10:38:00
4 invented, right? 10:38:02
5 A. What I invented would be the apparatus and 10:38:05
6 the method for taking that audio source material and 10:38:08
7 putting it into the form where it was time compressed 10:38:13
8 and being able to send it to one or more -- one or 10:38:16
9 more similar apparatus or, you know, utilizing this 10:38:21
10 method such that it would be received in faster than 10:38:28
11 realtime. 10:38:31
12 I did not invent the concept of data going 10:38:33
13 faster than realtime. I invented the specific 10:38:38
14 apparatus and specific method to accomplish that with 10:38:41
15 video and audio. 10:38:44
16 Q. Had data been transferred faster than 10:38:46
17 realtime before your invention? 10:38:49
18 A. I don't recall instances of it, but there 10:38:52
19 had not been this invention prior to my invention of 10:38:55
20 it. 10:38:58
21 Q. Let's move to the -- to claim 26. You had 10:39:02
22 mentioned -- not claim 26, Exhibit 26. 10:39:07
23 You had mentioned a method so let's start 10:39:10
24 taking a look at the method claims with some of the 10:39:13
25 apparatus claims? 10:39:17

1 MR. YORIO: Same objection as to form. 10:55:23

2 THE WITNESS: I don't -- if I understand 10:55:25
3 your question correctly, I don't believe there's 10:55:26
4 another block in the patent other than the fact that 10:55:28
5 that block should be read in conjunction with the 10:55:34
6 various output means to determine what's being -- 10:55:37
7 what form that compression is taking. 10:55:42

8 BY MR. LEWIS:

9 Q. I don't think you quite answered the same 10:55:46
10 question I asked. Let me just ask this: Other than 10:55:48
11 the AMD 7971, are there any other means in the '995 10:55:54
12 patent specification to perform the compressing 10:56:01
13 function? If there are not, that's fine. I'm just 10:56:05
14 asking. 10:56:08

15 A. Well, again, if I understand your question 10:56:09
16 correctly, the answer is no. 10:56:15

17 Q. What about my question don't you understand? 10:56:19

18 A. Well, you know, that's given as an example. 10:56:21
19 So, it sounds like you're saying that that's the 10:56:25
20 compression that is called out as integral to this 10:56:30
21 patent and -- 10:56:33

22 Q. That's an issue for another day and what I'm 10:56:34
23 asking you factually, when you read the specification 10:56:38
24 to the '995 patent, is there any other means in it 10:56:41
25 disclosed, written about, other than the AMD 7971 10:56:46

1 chip for performing the compressing function? 10:56:50
2 MR. YORIO: Objection to the form of the 10:56:58
3 question. 10:57:09
4 THE WITNESS: Well, on column 4, line 65, 10:57:09
5 the sentence reads "Various algorithms may be 10:57:12
6 employed in the compression process which enable the 10:57:15
7 representation of a series of numbers by a reduced 10:57:18
8 number of digits." 10:57:21
9 So, that's, I suppose, an additional 10:57:23
10 reference to the compression. 10:57:25
11 BY MR. LEWIS:
12 Q. Other than that, are there any other means 10:57:26
13 in here, other than the AMD 7971 in the specification 10:57:29
14 for the '995 patent, to perform the compressing 10:57:33
15 function? 10:57:36
16 A. Again -- 10:57:39
17 MR. YORIO: Same objection. 10:57:40
18 THE WITNESS: I believe the answer is no. 10:57:40
19 BY MR. LEWIS:
20 Q. And how did the AMD 7971 chip end up being 10:57:42
21 referenced in the '995 patent? 10:57:51
22 A. It was one that was available at that time 10:57:55
23 that could serve as an example. 10:58:00
24 Q. Did you look it up or did somebody else 10:58:02
25 provide you with that chip? 10:58:05

1 Q. It's in the '839. I don't know, the 11:15:13
2 original continuation in part is an earlier 11:15:17
3 application? 11:15:19
4 A. Right. I don't recall that. 11:15:19
5 Q. Are you aware of anything was removed from 11:15:21
6 the specification when the continuation in part was 11:15:22
7 filed? 11:15:26
8 A. Again, I don't recall specifically. 11:15:28
9 Q. Let me ask you to turn to column 13 of 11:15:59
10 Exhibit 26, the '839 patent. 11:16:05
11 A. 13? 11:16:10
12 Q. Yes. 11:16:10
13 A. Okay. 11:16:11
14 Q. Before I do that, let me ask you a couple 11:16:12
15 other questions. 11:16:13
16 In December of 1988 when the '995 patent was 11:16:14
17 filed, do you recall whether you were aware of the 11:16:17
18 existence of the Internet? 11:16:20
19 A. I don't believe I was. 11:16:22
20 Q. You don't believe you were aware of it? 11:16:23
21 A. No, I don't think it was common, only talked 11:16:25
22 about in those days if it existed at all. 11:16:28
23 Q. Were you aware of the Internet in May of 11:16:31
24 1989 when the continuation in part application was 11:16:34
25 filed? 11:16:36

1 and to claim 6 within there. 15:03:24

2 Starting right around line 32, it looks 15:03:26

3 like, they're off again on this one, there's the 15:03:29

4 compression means paragraph. 15:03:32

5 Take a look at that and we will talk. 15:03:34

6 A. Column 13 -- 15:03:37

7 Q. About 32, give or take. 15:03:39

8 A. I see it, okay. Okay. 15:03:42

9 Q. All right. Now, with reference to the '995 15:03:53

10 patent, we had talked earlier, if you recall, about 15:03:58

11 the AMD 7971. 15:04:00

12 Do you remember that? 15:04:03

13 A. Uh-huh. 15:04:05

14 Q. And now, it appears that the reference to 15:04:06

15 the AMD chip is not in the '705 patent. 15:04:09

16 I refer you to column 5 or anywhere else 15:04:15

17 you'd like to look. 15:04:20

18 Is that consistent with your understanding? 15:04:21

19 A. I believe that's correct. 15:04:23

20 Q. Is there, then, any specific structure 15:04:26

21 disclosed in the '705 patent that performs the 15:04:28

22 compressing function of -- as described in claim 6? 15:04:34

23 A. Well, yes, it's in the diagram. Box 12, 15:04:41

24 specifically box 26. 15:04:45

25 Q. Is there any -- that's just a little box 15:04:49

1 that says comp/decom? 15:04:51
2 A. Yeah, compression, decompression. 15:04:54
3 Q. Is there any specific hardware called out -- 15:04:56
4 I won't use that -- is there any specific hardware 15:04:58
5 identified in the '705 patent to perform the 15:05:01
6 compressing function? 15:05:05
7 MR. YORIO: Objection to the form of the
8 question. 15:05:11
9 THE WITNESS: There wasn't a need to call 15:05:11
10 out a specific. By this time, there are numerous 15:05:12
11 examples known in the art for compressing video data. 15:05:15
12 BY MR. LEWIS:
13 Q. So then it's correct no specific hardware 15:05:19
14 was identified in the '705 patent? 15:05:22
15 MR. YORIO: Same objection. 15:05:25
16 THE WITNESS: Again, you know, there was an 15:05:27
17 example given of specific hardware in the '995. We 15:05:29
18 did not see a need to call out specific hardware in 15:05:36
19 this one. 15:05:38
20 BY MR. LEWIS:
21 Q. So then you didn't do so, correct? 15:05:40
22 A. That's correct. 15:05:43
23 Q. Let me refer you to a different part of -- 15:05:44
24 within that paragraph that we're talking about, 15:05:50
25 column 13, and it looks like it's line 38. 15:05:53

1 In other words, if it were not noticeable, 15:07:02
2 if it was -- if it was a 60 minute program that was 15:07:05
3 transmitted in 59 minutes and 58 seconds, I would not 15:07:08
4 call it substantially shorter. 15:07:13

5 If it was transmitted in 30 minutes instead 15:07:15
6 of 60, I would say that's substantially shorter. 15:07:17

7 BY MR. LEWIS:

8 Q. Where would you draw the line between just 15:07:21
9 shorter and substantially shorter? 15:07:23

10 A. I don't know. I think that would be 15:07:25
11 subjective for different people. 15:07:27

12 Q. Is there anything in the '705 patent 15:07:29
13 specification or figures that would help you draw the 15:07:32
14 line between shorter and substantially shorter? 15:07:36

15 MR. YORIO: Objection to the form of the
16 question. 15:07:39

17 THE WITNESS: I -- if you like, I can read 15:07:40
18 through the '705 specification to look for that. I 15:07:43
19 don't recall anything off the top of my head. 15:07:47
20 Doesn't mean it's not there. 15:07:48

21 BY MR. LEWIS:

22 Q. Go ahead. 15:07:50

23 A. If you want me to, I will. 15:07:51

24 Q. That's fine. You've looked at it enough 15:07:53
25 times. I'm sure you can go through it in a 15:07:55

1 reasonably efficient manner. 15:07:58

2 A. I'll do my best, but -- in other words, what 15:08:00
3 you want me to identify is terminology that refers to 15:08:03
4 the term substantially shorter? 15:08:05

5 Q. What I'm trying to understand is the 15:08:09
6 difference between shorter and substantially shorter, 15:08:10
7 because in the other patents, it talks about shorter 15:08:13
8 and this one says substantially shorter. 15:08:17

9 I'm trying to understand what if anything 15:08:20
10 the difference is and so I wanted to know if there's 15:08:21
11 anything in the specification or the figures that 15:08:26
12 would help me understand the difference between 15:08:28
13 shorter and substantially shorter. 15:08:31

14 A. Let me take a quick look here. 15:08:35

15 One possible place would be column 2, line 15:09:18
16 54. Actually, the sentence starting at 50 looks 15:09:23
17 like 3 where it talks about utilizing a data 15:09:30
18 compression technique for efficient storage, 15:09:33
19 efficient transmission and so, you know, to be 15:09:36
20 efficient, I would say efficient is a word that would 15:09:40
21 help clarify substantial. 15:09:44

22 Q. Does that tell you the difference between -- 15:09:48
23 strike that. 15:09:50

24 Does efficient as used in column 2 help one 15:09:50
25 understand the difference between shorter and 15:09:54

1 substantially shorter? 15:09:56

2 MR. YORIO: Objection to the form. 15:09:58

3 THE WITNESS: Again, it's subjective, 15:09:59

4 depending upon what the needs are of the person 15:10:01

5 that's applying the invention. 15:10:04

6 So, I'll keep looking but that's the first 15:10:06

7 word that helps clarify that difference. 15:10:16

8 BY MR. LEWIS:

9 Q. Okay. Let me know if there's anything else. 15:10:18

10 A. There's a reference -- two references to 15:12:10

11 speed beginning on column 7, line 66 ending -- let's 15:12:13

12 see. The first one ends on column 8, line 1 and 2, 15:12:24

13 talks about accuracy and reliability at a high speed 15:12:29

14 and example is 200 megabytes per second. 15:12:35

15 And it talks about the VCR-ET can 15:12:41

16 receive/transmit a video program at an accelerated 15:12:45

17 rate. 15:12:48

18 So, in less time than it would take to view 15:12:49

19 the program in that same paragraph. 15:12:52

20 Again, the true answer to your question is 15:12:56

21 that it is subjective, whether something is shorter, 15:12:58

22 substantially shorter. 15:13:01

23 Q. Subjective to whom? 15:13:03

24 A. To the reader, to the person using the 15:13:03

25 invention. 15:13:08

1 I think the key point from my perspective 15:13:09
2 was that that time be less than the duration of the 15:13:12
3 realtime program. There may be -- you know, there 15:13:16
4 may be efficiencies even if it's only five percent 15:13:18
5 shorter that would make sense in one application 15:13:22
6 versus another application. To really be worthwhile, 15:13:28
7 economically feasible you would have to send it four 15:13:30
8 times faster than realtime and that would be a 15:13:33
9 function of how it's being used and where and who is 15:13:35
10 using it. 15:13:38
11 So, you know, what's shorter to one person 15:13:39
12 might be substantially shorter to another. 15:13:42
13 Q. Would five to 30 seconds for a two-hour 15:13:53
14 movie be substantially shorter than realtime? 15:13:56
15 A. I would think so. 15:13:59
16 Q. Do you know why substantially shorter was 15:14:21
17 included in the claims of the '705 patent? 15:14:23
18 A. I don't remember. 15:14:26
19 Q. Did you ever know? 15:14:27
20 A. I'm sure I did, but I don't recall it right 15:14:29
21 now, the context of today, you know, however many 15:14:31
22 years later it is. 15:14:34
23 Q. Were there any other references in the 15:15:14
24 specification of the '705 patent that you thought 15:15:16
25 would help one identify the difference between 15:15:19

1 shorter and substantially shorter? 15:15:22

2 A. I'll keep looking. 15:15:25

3 Column 8, lines -- the sentence beginning on 15:15:30

4 line 10, talks about an accelerated rate. 15:15:35

5 Again, the answer is it is subjective, but 15:15:41

6 the key -- it is shorter as a result of the 15:15:44

7 application of the invention. 15:15:48

8 Q. But then there's substantially shorter? 15:15:50

9 A. You know, it's -- it's subjective. 15:15:52

10 Q. One wouldn't know just from the word 15:15:57

11 substantially shorter whether something was 15:15:59

12 substantially shorter or not substantially shorter 15:16:01

13 and not just shorter? 15:16:05

14 MR. YORIO: Objection to the form of the

15 question. 15:16:08

16 THE WITNESS: No, each person would know 15:16:08

17 based on their own application of the patent, whether 15:16:09

18 the actual application represented shorter or 15:16:13

19 substantially shorter. 15:16:16

20 Again, in some situations, a gain of ten 15:16:18

21 percent could be substantial given all the other 15:16:21

22 factors. 15:16:25

23 In another situation, you know, you might 15:16:26

24 need to get twice or ten times realtime to say that's 15:16:30

25 substantially shorter. 15:16:33

1 BY MR. LEWIS:

2 Q. Anywhere else you would like to point to in 15:16:35
3 the '705 patent that would help understand the 15:16:38
4 difference between shorter and substantially shorter? 15:16:42

5 A. All I'm doing really is pointing out 15:16:44
6 references to speed. I don't think it will change 15:16:48
7 the sense of my response, but if you want, I will 15:16:50
8 continue to look for other references to speed. 15:16:54

9 Q. I guess I don't understand how a reference 15:16:56
10 to speed tells you the difference between shorter and 15:16:58
11 substantially shorter. 15:17:00

12 Does it? 15:17:01

13 MR. YORIO: Objection to the form of the
14 question. 15:17:05

15 BY MR. LEWIS:

16 Q. Let me reask it. 15:17:05

17 How does a reference to speed indicate the 15:17:06
18 difference between shorter and substantially shorter 15:17:08
19 transmission time? 15:17:12

20 MR. YORIO: Same objection. 15:17:13

21 THE WITNESS: I'm not sure that it will. I 15:17:13
22 think the core answer is that it's subjective based 15:17:16
23 on how the invention is being practiced, in what 15:17:19
24 context. 15:17:26

25 BY MR. LEWIS:

1 I, LOUISE MARIE SOUSOURES, duly authorized to
2 administer oaths pursuant to Section 2093(b) of the
3 California Code of Civil Procedure, do hereby
4 certify: That the witness in the foregoing deposition
5 was by me duly sworn to testify the truth in the
6 within-entitled cause; that said deposition was taken
7 at the time and place therein cited; that the
8 testimony of the said witness was reported by me and
9 was hereafter transcribed under my direction into
10 typewriting; that the foregoing is a complete and
11 accurate record of said testimony; and that the
12 witness was given an opportunity to read and correct
13 said deposition and to subscribe the same.

14 Should the signature of the witness not be
15 affixed to the deposition, the witness shall not have
16 availed himself or herself of the opportunity to sign
17 or the signature has been waived.

18 I further certify that I am not of counsel,
19 nor attorney for any of the parties in the foregoing
20 deposition and caption named, nor in any way
21 interested in the outcome of the cause named in said
22 caption.

23 DATED: August 5, 2003

24 Louise Marie Sousoures
25 LOUISE MARIE SOUSOURES,
CSR. NO 3575